

LEOFF Retirement System

Plan 2 Disability Benefits

The provisions governing your disability benefits are contained in the Revised Code of Washington (RCW) Chapter 41.26. This publication summarizes those provisions. It is not a complete description of the law. If there are any conflicts between what is written in this publication and what is contained in the law, the applicable law will govern.

The Law Enforcement Officers' and Fire Fighters' (LEOFF) Retirement System provides members with disability retirement benefits if they become disabled. LEOFF Plan 2 provides an earned disability retirement for members who become totally incapacitated for continued employment with a LEOFF employer. This publication provides information about a member's eligibility for a disability retirement benefit and the requirements for continued eligibility. The Department of Retirement Systems (DRS) recommends that you contact a LEOFF retirement services analyst if you intend to apply for disability benefits. See "How Do I Apply?" on page 3.

You may also be eligible for benefits from the Department of Labor and Industries (Workers' Compensation benefits), the Department of Social and Health Services, the Social Security Administration and your employer. Please contact these organizations directly for more information.

Am I eligible for disability retirement?

You may be eligible for disability retirement benefits if you are totally incapacitated for continued employment with your LEOFF employer and you leave that employment as a result of the disability. Note: No minimum amount of service credit is required for you to be eligible for a LEOFF Plan 2 disability retirement benefit.

You must file (i.e., DRS must receive) an application before you can qualify for disability retirement benefits. DRS will determine whether or not you are capable of carrying out the duties of the job that you performed at the time of the disability, or any other job you are qualified to perform for an employer covered by LEOFF. You are responsible for scheduling and paying for independent medical examinations to prove that you qualify for a disability retirement benefit. Regardless of the type of disability, rate of pay is not a factor in determining whether you are totally incapacitated for work.

A member cannot receive a disability retirement benefit if the disability is the result of criminal conduct by the member committed after April 21, 1997. Reference RCW 41.26.061 for details.

What is my benefit?

If you qualify, you will receive a monthly benefit calculated as follows: 2 percent x final average salary x service credit years. Final average salary is the monthly average of your 60 consecutive highest-paid service credit months. (If you have fewer than 60 service credit months when you become disabled, the average will be based on your actual total of service credit months.) Service credit is your total years of service credit at the time you separated from employment. Your benefit will be reduced to reflect the difference between your age at the time of disability retirement and age 53. The reduction is determined using tables provided by the Office of the State Actuary. If you select a survivor option, your benefit will be further reduced. To learn more about designating a beneficiary and survivor benefit options, please refer to your member handbook.

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LEOFF Plan 2 Disability Benefits

Lump sum payment instead of monthly benefit

If your monthly benefit will be less than \$50, you may choose between a monthly benefit or a lump sum payment. If you choose a monthly benefit, you will no longer be eligible to withdraw your contributions. If you choose a lump sum payment, you are considered retired from LEOFF.

Withdrawal of contributions

If you separate from service, you have the option of withdrawing your accumulated contributions and terminating membership in the Plan. If you have 10 or more service credit years in LEOFF, you may withdraw 150 percent of your accumulated contributions. If you withdraw your contributions, you cancel all rights and benefits you may have accrued in LEOFF, including the right to be “reinstated to duty” in your LEOFF position upon recovering from your disability. Read the DRS publication, *Withdrawal of Retirement Contributions*, for more information including information on the tax implications of withdrawing your contributions.

Can my benefits increase after I retire?

On July 1 of every year following your first full year of retirement, your monthly benefit will be adjusted by the percentage change in the Consumer Price Index (CPI-U, Seattle), to a maximum of 3 percent per year.

Temporary Duty Disability Leave Service Credit

You have the option to apply for up to six months of service credit for a duty related disability for each covered incident. To establish service credit:

- Your disability must have occurred in the line of duty; and
- You must be receiving Workers’ Compensation benefits **and** disability leave supplement or similar benefits provided by your employer; and
- You and your employer must make employer and member contributions on the compensation you would have earned had you been working; and
- You must be employed in an eligible position or be on an authorized leave of absence.

If your employer does not offer disability leave supplement or similar benefits, you are ineligible for service credit under this provision. You may be eligible under the leave-of absence provisions. See your *LEOFF Plan 2 Member Handbook* for more information.

Will my benefit end?

If you receive a monthly disability retirement benefit, DRS may require you to undergo comprehensive medical examinations. You or your doctor must report any change in your condition to DRS.

If a medical examination shows that you have recovered from your disability and you are no longer entitled to Workers’ Compensation benefits, DRS will cancel your retirement benefit and issue an order that you be restored to duty. If this happens, you will be entitled to notice and a hearing.

If you are unable to perform the duties of your former rank, you may request assignment to a lower rank which has duties you are able to perform. In no event are you to be restored to duty at a pay rate that is less than the current pay rate for the position you held at the time you began your retirement.

Following cancellation of your disability retirement benefit and upon your return to LEOFF-covered service with your employer, you will again earn service credit and become eligible for the benefits available to an active member.

LEOFF Plan 2 Disability Benefits

How do I apply?

Contact DRS in writing or by phone and request an application. See contact information at the end of this brochure. Provide the following information:

- Name
- Address
- Daytime phone number
- Social Security Number
- Employer's name
- Retirement system and plan
- Spouse's birth date (if married)
- The date you became disabled
- The date you separated or will separate from service

A retirement services analyst will provide you with an estimate of your disability benefit at the time the disability application is mailed to you. When you receive your packet, make sure that all three parts of the *LEOFF Plan 2 Disability Retirement Application* are completed by the proper persons and returned to DRS.

- **Part 1: Disability Retirement Application.** - *You must complete, sign and have notarized.*
- **Part 2: Employer's Statement and Report.** - *Your employer must complete, sign and return directly to DRS.*
- **Part 3: Medical Report.** - *You must complete section one, then your physician must complete sections two, three and four, sign and return directly to DRS.*

You may apply for a disability retirement and receive a determination of eligibility prior to separating from employment. You do need to be separated from employment in order to receive disability benefits.

How long does approval take and when will benefit begin?

Once DRS has received all three parts of the disability application - as described under "How do I apply?" - the determination process may take between two to four weeks. The process may take longer if the application is incomplete or if DRS requires additional information from you or other sources concerning your application. A retirement services analyst will contact you if DRS needs additional information.

The disability allowance paid to a disabled member accrues from the first day of the calendar month immediately following the member's separation from employment for disability.

Can I work after retiring for disability?

Your disability retirement benefits may be affected if you go to work for any public employer in Washington. In some cases, depending on the position and the extent to which you work, retirement benefits may be suspended, and you may be required to make contributions to a retirement system. If you decide to return to work you may call DRS to determine how your benefits will be affected. You will find a brief summary of the returning-to-work requirements in the DRS publication *Thinking About Working After Retirement?*

Other provisions concerning your disability retirement

Appealing a decision

If DRS denies your application for benefits, you may petition for a review within 120 days of receiving the denial. Instructions are available in chapter 415-04 WAC. If your petition is denied, DRS will inform you of the appeal procedures, which are available in chapter 415-08 WAC. You will have 60 days to appeal the decision.

LEOFF Plan 2 Disability Benefits

If your disability retirement application is denied, do not file another disability application based on the same medical condition. DRS does not consider it a new application and will deny it. However, if the same condition gets worse or if you are able to provide additional information, you may file another application.

Errors

If you receive an overpayment of your disability benefit or refund, DRS will require you to repay the overpayment. If you receive an underpayment, LEOFF will correct the error and pay you in full.

Taxation and assignment of benefits

Most of your retirement benefit will be subject to federal income tax. The only portion that is exempt from tax is the part that was taxed before it was contributed. Many employers do not withhold federal income taxes from your retirement contributions. After you retire, DRS will notify you of the portion of your contributions that has already been taxed. The IRS refers to this taxed amount as your "cost". You must complete a W-4P form to tell DRS how much of your benefit should be withheld for taxes. If you do not, DRS will follow IRS rules requiring withholding as if you are married and claiming three exemptions. It is your responsibility to declare the proper amount of taxable income on your income tax return.

Assignment and attachment of benefits

Retirement benefits are not generally subject to assignment or attachment. However, payments received by you in the form of retirement benefits or as a refund of your contributions may be subject to payment of court and administrative orders for spousal maintenance and child support, or payment of any orders authorized by federal law. DRS is authorized to divide benefits between members and ex-spouses based upon court-ordered property division. If the divorce decree complies with the applicable law, DRS will send the property division payment directly to the ex-spouse. See the DRS online publications, *How Can a Property Division Affect My Retirement Account?* and *Can Legal Action Affect My Retirement Account?*

Where to find more information

Refer to your *LEOFF Plan 2 Member Handbook* or visit the DRS Web site at: www.drs.wa.gov. DRS office hours are 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Before visiting, please call to schedule an appointment.

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